



**Service of Process  
Transmittal**

12/01/2020

CT Log Number 538683764

**TO:** Kim Lundy Service Of Process  
Walmart Inc.  
702 SW 8TH ST  
BENTONVILLE, AR 72716-6209

**RE: Process Served in New York**

**FOR:** WALMART INC. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Gambino Rosanna Antolino and Anthony Gambino, Pltfs. vs. FBG Wall, LLC, et al.,  
Dfts. // To: Walmart, Inc.  
*Name discrepancy noted.*

**DOCUMENT(S) SERVED:** Notice, Summons, Complaint, Verification

**COURT/AGENCY:** New York County: Supreme Court, NY  
Case # 1595492020

**NATURE OF ACTION:** Personal Injury - Slip/Trip and Fall - 02/03/2018 at 288 Larkin Drive, Monroe, New  
York

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, New York, NY

**DATE AND HOUR OF SERVICE:** By Process Server on 12/01/2020 at 16:56

**JURISDICTION SERVED :** New York

**APPEARANCE OR ANSWER DUE:** Within 20 days after service, exclusive of the day of service

**ATTORNEY(S) / SENDER(S):** Natalie A. Zammitti Shaw  
Law Offices Rosemarie Arnold  
1386 Palisade Avenue  
Fort Lee, NJ 07024  
201-461-1111

**ACTION ITEMS:** CT has retained the current log, Retain Date: 12/02/2020, Expected Purge Date:  
12/07/2020  
  
Image SOP  
  
Email Notification, Kim Lundy Service Of Process [ctlawsuits@walmartlegal.com](mailto:ctlawsuits@walmartlegal.com)

**SIGNED:** C T Corporation System  
**ADDRESS:** 1999 Bryan St Ste 900  
Dallas, TX 75201-3140

**For Questions:** 877-564-7529  
[MajorAccountTeam2@wolterskluwer.com](mailto:MajorAccountTeam2@wolterskluwer.com)



## PROCESS SERVER DELIVERY DETAILS

**Date:** Tue, Dec 1, 2020

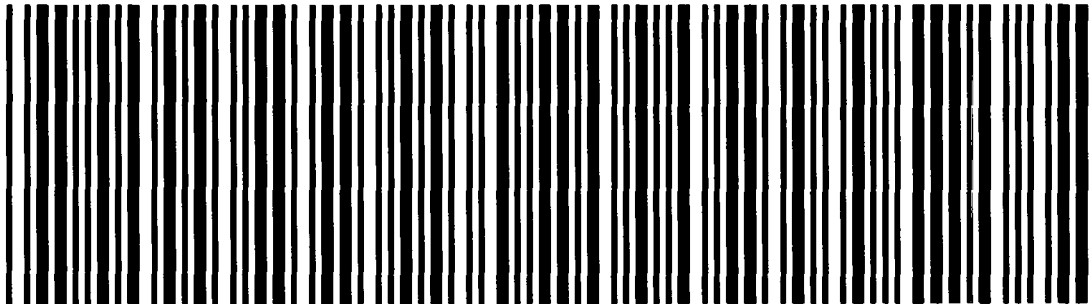
**Server Name:** Gina Eannucci

**Entity Served** WALMART INC.

**Agent Name**

**Case Number** 159549/2020

**Jurisdiction** NY



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

-----X  
ROSANNA ANTOLINO GAMBINO and  
ANTHONY GAMBINO,

Index No. 159549/2020

Plaintiffs,

-against-

FBG WALL LLC, WALMART, INC., RD  
MANAGEMENT LLC, HARRIMAN COMMONS, LLC,  
D & D GENERAL CONTRACTING & PROPERTY  
MAINTENANCE INC., "JOHN DOE", as described in  
the complaint,

Defendants.

-----X  
**NOTICE OF ELECTRONIC FILING  
(Consensual Case)  
(Uniform Rule § 202.5-b)**

**You have received this Notice because:**

- 1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and
- 2) You are a Defendant/Respondent (a party) in this case.

• **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

• **If you are not represented by an attorney:**

**You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.**

**If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.**

**The benefits of participating in e-filing include:**

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

**To register for e-filing or for more information about how e-filing works:**

- visit: [www.nycourts.gov/efile-unrepresented](http://www.nycourts.gov/efile-unrepresented) or
  - contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at [www.nycourts.gov](http://www.nycourts.gov)
- To find legal information to help you represent yourself visit [www.nycourthelp.gov](http://www.nycourthelp.gov)

### Information for Attorneys

An attorney representing a party who is served with this notice must either consent or decline consent to electronic filing and service through NYSCEF for this case.

Attorneys registered with NYSCEF may record their consent electronically in the manner provided at the NYSCEF site. Attorneys not registered with NYSCEF but intending to participate in e-filing must first create a NYSCEF account and obtain a user ID and password prior to recording their consent by going to [www.nycourts.gov/efile](http://www.nycourts.gov/efile)

Attorneys declining to consent must file with the court and serve on all parties of record a declination of consent.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at [www.nycourts.gov/efile](http://www.nycourts.gov/efile) or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: [nyscef@nycourts.gov](mailto:nyscef@nycourts.gov)).

Dated: November 23, 2020

Natalie A. Zammitti Shaw, Esq.

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Law Offices Rosemarie Arnold  
1386 Palisade Avenue  
Fort Lee, New Jersey 07024  
201-461-1111  
[NZammittiShaw@rosemariearnold.com](mailto:NZammittiShaw@rosemariearnold.com)

TO: Walmart, Inc.  
Registered Agent to service:  
C T CORPORATION SYSTEM  
28 LIBERTY ST.  
NEW YORK, NEW YORK, 10005

2/24/20

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

-----X

ROSANNA ANTOLINO GAMBINO and  
ANTHONY GAMBINO,

Index No.

Plaintiffs,

-against-

**SUMMONS**

FBG WALL LLC, WALMART, INC., RD  
MANAGEMENT LLC, HARRIMAN COMMONS, LLC,  
D & D GENERAL CONTRACTING & PROPERTY  
MAINTENANCE INC., "JOHN DOE", as described in  
the complaint,

Defendants.

Plaintiff resides at  
3 Moorefield Circle  
Highland Mills, NY 10930  
Venue based upon the  
Defendant Harriman  
Commons, LLC residence

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To the above named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service, or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York, and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Notice: The nature of the action is personal injury. The relief sought is monetary damages.

Upon your failure to appear, judgment will be taken against you by default in an amount sought exceeding jurisdictional limits of all Courts lower than the Supreme Court, with interest and the costs of this action from the date of the accident.

Dated: November 6, 2020

/s/ Natalie A. Zammitti Shaw

NATALIE A. ZAMMITTI SHAW

Law Offices Rosemarie Arnold

Attorneys for Plaintiffs

1386 Palisade Avenue

Fort Lee, New Jersey 07024

T: (201) 461-1111 F: (20) 461-1666

555 Madison Avenue, 16<sup>th</sup> Floor

New York, New York 10022

**\*\*PLEASE RESPOND TO NEW JERSEY ADDRESS\*\***

Defendants Addresses:

WALMART, INC.  
28 LIBERTY STREET  
NEW YORK, NEW YORK, 10005

FBG WALL LLC  
c/o RD Management LLC  
810 Seventh Avenue  
10th Floor  
New York, NY 10019

RD MANAGEMENT LLC  
810 Seventh Avenue  
10th Floor  
New York, NY 10019

HARRIMAN COMMONS, LLC  
c/o RD Management LLC  
810 Seventh Avenue  
10th Floor  
New York, NY 10019

D&D GENERAL CONTRACTING AND  
PROPERTY MAINTENANCE INC.  
532 Benten Hollow Road  
Woodburne, New York 12788

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

-----X

ROSANNA ANTOLINO GAMBINO, and  
ANTHONY GAMBINO,

Index No.

Plaintiffs,

-against-

**VERIFIED COMPLAINT**

FBG WALL, LLC, WALMART, INC., RD  
MANAGEMENT LLC, HARRIMAN COMMONS  
LLC, D&D GENERAL CONTRACTING AND  
PROPERTY MAINTENANCE, INC., and "JOHN DOE",  
as described in the complaint,

Defendants.

-----X

Plaintiffs complaining of the Defendants, by their attorneys, LAW OFFICES  
ROSEMARIE ARNOLD, respectfully alleges, upon information and belief:

**AS AND FOR A FIRST CAUSE OF ACTION**

1. That at all times mentioned herein, and at the time of the commencement of this action, Plaintiff was a resident of Orange County, State of New York.
2. That on February 3, 2018, and at all times mentioned herein, Defendant FBG WALL LLC was and still is, a corporation duly organized and existing under and by virtue of the laws of the State of Arkansas and a corporation duly licensed and authorized to do business in the State of New York.
3. That on February 3, 2018, and at all times mentioned herein, Defendant WALMART, INC. was and still is, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware and a corporation duly licensed and authorized to do business in the State of New York .

4. That on February 3, 2018, and at all times mentioned herein, Defendant RD MANAGEMENT LLC was and still is, a limited liability company duly organized and existing under and by virtue of the laws of the State of New York.
5. That on February 3, 2018, and at all times mentioned herein, Defendant HARRIMAN COMMONS, LLC was and still is, a limited liability company duly organized and existing under and by virtue of the laws of the State of New York.
6. That on February 3, 2018, and at all times mentioned herein, Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE, INC. was and still is, a corporation duly organized and existing under and by virtue of the laws of a state other than New York, but is doing business within the State of New York.
7. Upon information and belief, at the times hereinafter mentioned, the defendant “John Doe” is an individual, partnership, corporation, limited liability company, or any other business entity who on February 3, 2018 was responsible for the snow and ice removal in the parking lot adjacent to the Walmart located at 288 Larkin Drive, Monroe, New York and/or had recently thereto attempted to remediate same.
8. That on February 3, 2018, Plaintiff was lawfully upon the premises located at 288 Larkin Drive, County of Orange, State of New York.
9. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC owned, leased, rented, operated, controlled, maintained, managed and/or inspected the premises known as Walmart Supercenter, 288 Larkin Drive, Monroe, New York, specifically, the parking lot.
10. At all times mentioned herein, upon information and belief, Defendant WALMART, INC. owned, leased, rented, operated, controlled, maintained, managed and/or



inspected the premises known as Walmart Supercenter, 288 Larkin Drive, Monroe, New York, specifically the parking lot.

11. At all times mentioned herein, upon information and belief, Defendant RD MANAGEMENT LLC owned, leased, rented, operated, controlled, maintained, managed and/or inspected the premises known as Walmart Supercenter, 288 Larkin Drive, Monroe, New York, specifically, the parking lot.
12. At all times mentioned herein, upon information and belief, Defendant HARRIMAN COMMONS, LLC owned, leased, rented, operated, controlled, maintained, managed and/or inspected the premises known as Walmart Supercenter, 288 Larkin Drive, Monroe, New York, specifically, the parking lot.
13. At all times mentioned herein, upon information and belief, Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. owned, leased, rented, operated, controlled, maintained, managed and/or inspected the premises known as Walmart Supercenter, 288 Larkin Drive, Monroe, New York, specifically, the parking lot.
14. On February 3, 2018, Plaintiff was caused to slip and fall and sustain serious, substantial and permanent personal injuries due to snow and ice in the parking lot outside the premises located at 288 Larkin Drive, Monroe, New York.
15. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC owed a duty to Plaintiff and persons such as Plaintiff to keep the property outside located at 288 Larkin Drive, Monroe, New York free of any and all obstacles and/or dangerous and/or hazardous conditions including snow or ice and/or owed a duty to Plaintiff and persons such as Plaintiff to keep the aforementioned property in

safe and/or proper condition and/or repair and/or owed a duty to Plaintiff and persons such as Plaintiff to warn them of dangerous and/or hazardous conditions on the premises.

16. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC owed a duty to Plaintiff and persons such as Plaintiff to control and/or maintain and/or manage and/or inspect the property outside located at 288 Larkin Drive, Monroe, New York.

17. At all times mentioned herein, upon information and belief, Defendant WALMART, INC. owed a duty to Plaintiff and persons such as Plaintiff to keep the property outside located at 288 Larkin Drive, Monroe, New York free of any and all obstacles and/or dangerous and/or hazardous conditions including snow or ice and/or owed a duty to Plaintiff and persons such as Plaintiff to keep the aforementioned property in safe and/or proper condition and/or repair and/or owed a duty to Plaintiff and persons such as Plaintiff to warn them of dangerous and/or hazardous conditions on the premises.

18. At all times mentioned herein, upon information and belief, Defendant WALMART, INC. owed a duty to Plaintiff and persons such as Plaintiff to control and/or maintain and/or manage and/or inspect the property outside located at 288 Larkin Drive, Monroe, New York.

19. At all times mentioned herein, upon information and belief, Defendant RD MANAGEMENT LLC owed a duty to Plaintiff and persons such as Plaintiff to keep the property outside located at 288 Larkin Drive, Monroe, New York free of any and all obstacles and/or dangerous and/or hazardous conditions including snow and ice

and/or owed a duty to Plaintiff and persons such as Plaintiff to keep the  
aforementioned property in safe and/or proper condition and/or repair and/or owed a  
duty to Plaintiff and persons such as Plaintiff to warn them of dangerous and/or  
hazardous conditions on the premises.

20. At all times mentioned herein, upon information and belief, Defendant RD  
MANAGEMENT LLC owed a duty to Plaintiff and persons such as Plaintiff to  
control and/or maintain and/or manage and/or inspect the property outside located at  
288 Larkin Drive, Monroe, New York.

21. At all times mentioned herein, upon information and belief, Defendant HARRIMAN  
COMMONS, LLC owed a duty to Plaintiff and persons such as Plaintiff to keep the  
property outside located at 288 Larkin Drive, Monroe, New York free of any and all  
obstacles and/or dangerous and/or hazardous conditions including snow or ice and/or  
owed a duty to Plaintiff and persons such as Plaintiff to keep the aforementioned  
property in safe and/or proper condition and/or repair and/or owed a duty to Plaintiff  
and persons such as Plaintiff to warn them of dangerous and/or hazardous conditions  
on the premises.

22. At all times mentioned herein, upon information and belief, Defendant HARRIMAN  
COMMONS, LLC owed a duty to Plaintiff and persons such as Plaintiff to control  
and/or maintain and/or manage and/or inspect the property outside located at 288  
Larkin Drive, Monroe, New York.

23. At all times mentioned herein, upon information and belief, Defendant D&D  
GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. owed a  
duty to Plaintiff and persons such as Plaintiff to keep the property outside located at

288 Larkin Drive, Monroe, New York free of any and all obstacles and/or dangerous and/or hazardous conditions including snow or ice and/or owed a duty to Plaintiff and persons such as Plaintiff to keep the aforementioned property in safe and/or proper condition and/or repair and/or owed a duty to Plaintiff and persons such as Plaintiff to warn them of dangerous and/or hazardous conditions on the premises.

24. At all times mentioned herein, upon information and belief, Defendant D&D

GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. owed a duty to Plaintiff and persons such as Plaintiff to control and/or maintain and/or manage and/or inspect the property outside located at 288 Larkin Drive, Monroe, New York.

25. At all times mentioned herein, upon information and belief, Defendant JOHN DOE

owed a duty to Plaintiff and persons such as Plaintiff to keep the property outside located at 288 Larkin Drive, Monroe, New York free of any and all obstacles and/or dangerous and/or hazardous conditions including snow or ice and/or owed a duty to Plaintiff and persons such as Plaintiff to keep the aforementioned property in safe and/or proper condition and/or repair and/or owed a duty to Plaintiff and persons such as Plaintiff to warn them of dangerous and/or hazardous conditions on the premises.

26. At all times mentioned herein, upon information and belief, Defendant JOHN DOE

owed a duty to Plaintiff and persons such as Plaintiff to control and/or maintain and/or manage and/or inspect the property outside located at 288 Larkin Drive, Monroe, New York.

27. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC, breached their aforementioned duties to the public and persons including but not limited to the Plaintiff.
28. At all times mentioned herein, upon information and belief, Defendant WALMART, INC. breached their aforementioned duties to the public and persons including but not limited to the Plaintiff.
29. At all times mentioned herein, upon information and belief, Defendant RD MANAGEMENT LLC, breached their aforementioned duties to the public and persons including but not limited to the Plaintiff.
30. At all times mentioned herein, upon information and belief, Defendant HARRIMAN COMMONS, LLC breached their aforementioned duties to the public and persons including but not limited to the Plaintiff.
31. At all times mentioned herein, upon information and belief, Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. breached their aforementioned duties to the public and persons including but not limited to the Plaintiff.
32. At all times mentioned herein, upon information and belief, Defendant JOHN DOE, breached their aforementioned duties to the public and persons including but not limited to the Plaintiff.
33. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC, had actual notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries, and/or had constructive notice of the dangerous and/or hazardous condition

that caused the within incident, to wit, a parking lot consisting of snow and/or ice and Plaintiff's injuries, as the subject dangerous and/or hazardous condition existed for period of time prior to the happening of the subject incident, which period of time was such that Defendant FBG WALL LLC, its agents, servants and/or employees, knew or reasonably should have known and/or discovered the condition, and neglected to repair and/or remedy the dangerous and/or hazardous condition which caused the within incident and injuries to Plaintiff.

34. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC caused the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries.

35. At all times mentioned herein, upon information and belief, Defendant WALMART, INC, had actual notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries, and/or had constructive notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice and Plaintiff's injuries, as the subject dangerous and/or hazardous condition existed for period of time prior to the happening of the subject incident, which period of time was such that Defendant WALMART, INC., its agents, servants and/or employees, knew or reasonably should have known and/or discovered the condition, and neglected to repair and/or remedy the dangerous and/or hazardous condition which caused the within incident and injuries to Plaintiff.

36. At all times mentioned herein, upon information and belief, Defendant WALMART, INC. caused the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries.
37. At all times mentioned herein, upon information and belief, Defendant RD MANAGEMENT LLC, had actual notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries, and/or had constructive notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice and Plaintiff's injuries, as the subject dangerous and/or hazardous condition existed for period of time prior to the happening of the subject incident, which period of time was such that Defendant RD MANAGEMENT LLC, its agents, servants and/or employees, knew or reasonably should have known and/or discovered the condition, and neglected to repair and/or remedy the dangerous and/or hazardous condition which caused the within incident and injuries to Plaintiff.
38. At all times mentioned herein, upon information and belief, Defendant RD MANAGEMENT LLC caused the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries.
39. At all times mentioned herein, upon information and belief, Defendant HARRIMAN COMMONS, LLC had actual notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries, and/or had constructive notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow

and/or ice and Plaintiff's injuries, as the subject dangerous and/or hazardous condition existed for period of time prior to the happening of the subject incident, which period of time was such that Defendant HARRIMAN COMMONS, LLC its agents, servants and/or employees, knew or reasonably should have known and/or discovered the condition, and neglected to repair and/or remedy the dangerous and/or hazardous condition which caused the within incident and injuries to Plaintiff.

40. At all times mentioned herein, upon information and belief, Defendant HARRIMAN COMMONS, LLC caused the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries.

41. At all times mentioned herein, upon information and belief, Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. had actual notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries, and/or had constructive notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice and Plaintiff's injuries, as the subject dangerous and/or hazardous condition existed for period of time prior to the happening of the subject incident, which period of time was such that Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. its agents, servants and/or employees, knew or reasonably should have known and/or discovered the condition, and neglected to repair and/or remedy the dangerous and/or hazardous condition which caused the within incident and injuries to Plaintiff.



42. At all times mentioned herein, upon information and belief, Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. caused the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries.
43. At all times mentioned herein, upon information and belief, Defendant JOHN DOE, had actual notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries, and/or had constructive notice of the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice and Plaintiff's injuries, as the subject dangerous and/or hazardous condition existed for period of time prior to the happening of the subject incident, which period of time was such that Defendant JOHN DOE, its agents, servants and/or employees, knew or reasonably should have known and/or discovered the condition, and neglected to repair and/or remedy the dangerous and/or hazardous condition which caused the within incident and injuries to Plaintiff.
44. At all times mentioned herein, upon information and belief, Defendant JOHN DOE caused the dangerous and/or hazardous condition that caused the within incident, to wit, a parking lot consisting of snow and/or ice, and Plaintiff's injuries.
45. At all times mentioned herein, upon information and belief, Defendant FBG WALL LLC failed to warn persons, including but not limited to the Plaintiff, of the dangerous and/or hazardous condition.

46. At all times mentioned herein, upon information and belief, Defendant WALMART, INC. failed to warn persons, including but not limited to the Plaintiff, of the dangerous and/or hazardous condition.
47. At all times mentioned herein, upon information and belief, Defendant RD MANAGEMENT LLC failed to warn persons, including but not limited to the Plaintiff, of the dangerous and/or hazardous condition.
48. At all times mentioned herein, upon information and belief, Defendant HARRIMAN COMMONS, LLC failed to warn persons, including but not limited to the Plaintiff, of the dangerous and/or hazardous condition.
49. At all times mentioned herein, upon information and belief, Defendant D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. failed to warn persons, including but not limited to the Plaintiff, of the dangerous and/or hazardous condition
50. At all times mentioned herein, upon information and belief, Defendant JOHN DOE failed to warn persons, including but not limited to the Plaintiff, of the dangerous and/or hazardous condition
51. That as a direct and proximate cause, and reasonably foreseeable result of the Defendants' negligence and/or reckless disregard, in allowing and/or permitting the accumulation of snow or ice in the parking lot, Plaintiff suffered from serious, substantial and permanent personal injuries, including but not limited to, surgical intervention consisting of right carpal tunnel release and right ulnar decompression performed by Dr. Neal Shuren on June 19, 2018, surgical intervention consisting of anterior disc arthroplasty at C3-4 and anterior cervical discectomy and fusion at C4-

C5 and C5-C6 performed by Dr. Joshua Rovner on August 19, 2020, and will require further medical aid and assistance for an indefinite period of time, endured conscious pain and suffering and psychological overlay and lost earnings, all of which the Defendants are responsible for.

52. This action falls within one or more of the exceptions set forth in Section 1602 of the CPLR.

**WHEREFORE**, Plaintiff, ROSANNA ANTOLINO GAMBINO, demands judgment against the Defendants, FBG WALL LLC, and/or WALMART, INC. and/or RD MANAGEMENT LLC and/or HARRIMAN COMMONS, LLC and/or D&D GENERAL CONTRACTING AND PROPERTY MAINTENANCE INC. and/or JOHN DOE, jointly and severally in an amount that exceeds the jurisdictional amount of lower courts, together with punitive damages and the costs and disbursements of this action.

**AS AND FOR A SECOND CAUSE OF ACTION**

62. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above with the same force and effect as more fully set forth herein.

63. At all times mentioned herein, Plaintiff, ANTHONY GAMBINO is the lawful husband of Plaintiff, ROSANNA ANTOLINO GAMBINO.

64. As a result of the negligence of the Defendant(s) aforesaid, Plaintiff, ANTHONY GAMBINO has been and will be deprived of the services, support, society and consortium of his wife for a long period of time.

**WHEREFORE**, Plaintiff, ANTHONY GAMBINO, demands judgment against the Defendants, FBG WALL LLC, and/or WALMART, INC. and/or RD MANAGEMENT LLC and/or HARRIMAN COMMONS, LLC and/or D&D GENERAL CONTRACTING AND

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 11/06/2020

PROPERTY MAINTENANCE INC. and/or JOHN DOE, jointly and severally in an amount that exceeds the jurisdictional amount of lower courts, together with punitive damages and the costs and disbursements of this action.

Dated: Fort Lee, New Jersey  
November 6, 2020

/s/ Natalie A. Zammitti Shaw

NATALIE A. ZAMMITT SHAW  
LAW OFFICES ROSEMARIE ARNOLD  
Attorneys for Plaintiff  
1386 Palisade Avenue  
Fort Lee, New Jersey 07024  
T: (201) 461-1111 F: (20) 461-1666

555 Madison Avenue, 16<sup>th</sup> Floor  
New York, New York 10022

**\*\*PLEASE RESPOND TO NEW JERSEY ADDRESS\*\***

**ATTORNEY'S VERIFICATION**

NATALIE A.ZAMMITTI SHAW, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a partner at the LAW OFFICES ROSEMARIE ARNOLD, attorneys of record for Plaintiff, ROSANNA ANTOLINO GAMBINO and ANTHONY GAMBINO.

I have read the annexed Verified Complaint and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not Plaintiff is that Plaintiff is not presently in the county wherein the attorneys maintain their offices.

Dated: November 6, 2020

/s/ Natalie A. Zammitti Shaw

NATALIE A. ZAMMITTI SHAW  
LAW OFFICES ROSEMARIE ARNOLD

1386 Palisade Avenue  
Fort Lee, New Jersey 07024  
T: (201) 461-1111 F: (20) 461-1666

555 Madison Avenue, 16<sup>th</sup> Floor  
New York, New York 10022

**\*\*PLEASE RESPOND TO NEW JERSEY ADDRESS\*\***

WM 20-515 JO  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
ROSANNA ANTOLINO GAMBINO and  
ANTHONY GAMBINO,

**Index No.: 159549/2020**

Plaintiffs,

-against-

**VERIFIED ANSWER**

FBG WALL LLC, WALMART, INC., RD  
MANAGEMENT LLC, HARRIMAN COMMONS, LLC,  
D & D GENERAL CONTRACTING & PROPERTY  
MAINTENANCE INC., "JOHN DOE", as described in  
the complaint,

Defendants.  
-----X

The defendant, WAL-MART STORES EAST, LP i/s/h/a WALMART, INC., by its  
attorneys, BRODY, O'CONNOR & O'CONNOR, ESQS., answering the Verified Complaint herein  
states upon information and belief:

**AS TO THE FIRST CAUSE OF ACTION**

FIRST: Defendant denies having knowledge or information sufficient to form a belief  
as to the allegations set forth in paragraphs marked "1", and "2", and each and every part thereof.

SECOND: Defendant denies the allegations set forth in paragraph marked "3", except  
admits that WAL-MART STORES EAST, LP is a foreign limited partnership registered to do and  
doing business in the State of New York, leaving all other questions to the Court.

THIRD: Defendant denies having knowledge or information sufficient to form a belief  
as to the allegations set forth in paragraphs marked "4", "5", "6", "7", "8", and "9", and each and  
every part thereof.

FOURTH: Defendant denies the allegations set forth in paragraph marked “10”, except admits that WAL-MART STORES EAST, LP is a sublessee of that portion of the premises comprising the Wal-Mart store in Monroe, New York and is the operator of that Wal-Mart store, leaving all questions of fact to the trier of fact and all questions of law to the Court.

FIFTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “11”, “12”, “13”, “14”, “15”, and “16”, and each and every part thereof.

SIXTH: Defendant denies the allegations set forth in paragraphs marked “17”, and “18”, and respectfully refers all questions of law to the trial Court.

SEVENTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “19”, “20”, “21”, “22”, “23”, “24”, “25”, “26”, and “27”, and each and every part thereof.

EIGHTH: Defendant denies the allegations set forth in paragraph marked “28”, and respectfully refers all questions of law to the trial Court.

NINTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “29”, “30”, “31”, “32”, “33”, and “34”, and each and every part thereof.

TENTH: Defendant denies the allegations set forth in paragraphs marked “35”, and “36”, and each and every part thereof.

ELEVENTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “37”, “38”, “39”, “40”, “41”, “42”, “43”, “44”, and “45”, and each and every part thereof.

TWELFTH: Defendant denies the allegations set forth in paragraph marked “46”, and each and every part thereof.

THIRTEENTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “47”, “48”, “49”, and “50”, and each and every part thereof.

FOURTEENTH: Defendant denies the allegations set forth in paragraph marked “51”, and each and every part thereof.

FIFTEENTH: Defendant denies the allegations set forth in paragraph marked “52”, and respectfully refers all questions of law to the trial Court.

SIXTEENTH: Defendant denies the allegations set forth in missing paragraphs marked “53”, “54”, “55”, “56”, “57”, “58”, “59”, “60”, and “61”, and each and every part thereof.

#### **AS TO THE SECOND CAUSE OF ACTION**

SEVENTEENTH: Defendant repeats and reiterates each and every denial in answer to paragraphs numbered “1” through “61”, of the Complaint as if more particularly hereinafter set forth in answer to paragraph numbered “62”, and each and every part thereof.

EIGHTEENTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “63”, and “64”, and each and every part thereof.

#### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

NINETEENTH: The plaintiff was guilty of culpable conduct, including contributory negligence and/or assumption of risk, and should an award be made to plaintiff, same should be diminished in the proportion which the culpable conduct and/or contributory negligence and/or assumption of risk attributable to the plaintiff bears to the culpable conduct and/or negligence which



caused the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

TWENTIETH: In the event that plaintiff recovers judgment against this answering defendant and it is determined that plaintiff's damages were caused in whole or in part by two or more joint tortfeasors, then defendant's liability herein for non-economic loss may not exceed its equitable share of said damages in accordance with its relative culpability, as provided by Section 1601 of the CPLR.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

TWENTY-FIRST: Plaintiff's recovery, if any, shall be reduced by the amount of any collateral payments received, in accordance with CPLR Section 4545.

**AS A CROSS COMPLAINT AGAINST CO-DEFENDANT, D &  
D GENERAL CONTRACTING & PROPERTY  
MAINTENANCE INC., DEFENDANT, WAL-MART STORES  
EAST, LP, ALLEGES:**

If the plaintiff was caused to sustain injuries and damages at the time and place and in the manner alleged in the Complaint through any carelessness, recklessness and negligence other than the plaintiff's own carelessness, reckless and negligence, said injuries and damages were caused by reason of the carelessness, recklessness and negligence and/or affirmative acts of omission or commission and/or breach of contract and/or breach of lease by each party against whom this Cross-Complaint is pleaded and the agents, servants and/or employees of each such party, and if any judgment is recovered herein by the plaintiff against the defendant(s) asserting this Cross-Complaint, the said defendant(s) will be damaged thereby and each party against whom this Cross-Complaint is pleaded is or will be responsible therefor.

By reason of the foregoing and by reason of indemnification and/or hold harmless agreements by and between the cross-complaining defendant(s) and each party against whom this Cross-Complaint is pleaded, each party against whom this Cross-Complaint is pleaded will be liable to and bound to indemnify the defendant(s) asserting the same in the event of a recovery herein by the plaintiff against the defendant(s) asserting this Cross-Complaint and bound to pay to the defendant(s) asserting this Cross-Complaint and all attorneys' fees, costs of investigation and disbursement.

Alternatively and by reason of the foregoing, each party against whom this Cross-Complaint is pleaded, on the basis of apportionment of responsibility for the alleged occurrence, will be liable to contribute to the verdict or judgment recovered against the said defendant(s) asserting this Cross-Complaint.

WHEREFORE, defendant, WAL-MART STORES EAST, LP i/s/h/a WALMART, INC., requests judgment dismissing the Complaint herein, together with costs and disbursements of this action.

Dated: Northport, New York  
December 14, 2020

Yours, etc.

BRODY, O'CONNOR & O'CONNOR, ESQS.  
Attorneys for Defendant  
WAL-MART STORES EAST, LP i/s/h/a  
WALMART, INC.

By: s/  
PATRICIA A. O'CONNOR  
7 Bayview Avenue  
Northport, New York 11768  
(631) 261-7778  
File No.: WM 20-515 JO

TO: LAW OFFICES ROSEMARIE ARNOLD  
Attorneys for Plaintiffs  
1386 Palisade Avenue  
Fort Lee, New Jersey 07024  
(201) 461-1111

**AFFIRMATION BY ATTORNEY**

The undersigned, an attorney admitted to practice in the Courts of the State of New York, shows:

That affirmant is the attorney for the defendant in the within action; that affirmant has read the foregoing Verified Answer and knows the contents thereof; that the same is true to the affirmant's knowledge, except as to the matters therein stated to be alleged on information and belief; and that as to those matters, affirmant believes it to be true.

Affirmant further says that the reason this Verification is made by deponent and not by the defendant is that defendant is a foreign limited partnership.

The grounds of belief as to all matters not stated upon deponent's knowledge are documents, correspondence and records maintained in your deponent's files and conversations and conferences had with the defendant.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: Northport, New York  
December 14, 2020

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PATRICIA A. O'CONNOR

WM 20-515 JO  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
ROSANNA ANTOLINO GAMBINO and  
ANTHONY GAMBINO,

**Index No.: 159549/2020**

Plaintiffs,

-against-

**VERIFIED ANSWER**

FBG WALL LLC, WALMART, INC., RD  
MANAGEMENT LLC, HARRIMAN COMMONS, LLC,  
D & D GENERAL CONTRACTING & PROPERTY  
MAINTENANCE INC., "JOHN DOE", as described in  
the complaint,

Defendants.

-----X  
The defendants, FBG WALL LLC and RD MANAGEMENT LLC, by their attorneys,  
BRODY, O'CONNOR & O'CONNOR, ESQS., answering the Verified Complaint herein state upon  
information and belief.

**AS TO THE FIRST CAUSE OF ACTION**

FIRST: Defendants deny having knowledge or information sufficient to form a belief as to  
the allegations set forth in paragraph marked "1", and each and every part thereof.

SECOND: Defendants deny the allegations set forth in paragraphs marked "2", "3", and "4",  
except admits that FBG WALL LLC is a corporation duly licensed and authorized to do business in  
the State of New York, that WAL-MART STORES EAST, LP is a foreign limited partnership  
registered to do and doing business in the State of New York, and that RD MANAGEMENT LLC  
is a limited liability company duly organized under and by virtue of the laws of the State of New  
York, leaving all other questions to the Court.

THIRD: Defendants deny having knowledge or information sufficient to form a belief as to

the allegations set forth in paragraphs marked “5”, “6”, “7”, and “8” and each and every part thereof.

FOURTH: Defendants deny the allegations set forth in paragraphs marked “9”, “10”, and “11”, except admits that FBG WALL LCC owned that part of the premises where the Walmart store is located, that WAL-MART STORES EAST, LP is a sublessee of that portion of the premises comprising the Wal-Mart store in Monroe, New York and is the operator of that Wal-Mart store, and that RD MANAGEMENT LLC is the managing agent for the owner, leaving all questions of fact to the trier of fact and all questions of law to the Court.

FIFTH: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “12”, “13”, and “14”, and each and every part thereof.

SIXTH: Defendants deny the allegations set forth in paragraphs marked “15”, “16”, “17”, “18”, “19” and “20” and respectfully refers all questions of law to the trial Court.

SEVENTH: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “21”, “22”, “23”, “24”, “25” and “26”, and each and every part thereof.

EIGHTH: Defendants deny the allegations set forth in paragraphs marked “27”, “28”, and “29” and respectfully refers all questions of law to the trial Court.

NINTH: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs “30”, “31”, and “32”, and each and every part thereof.

TENTH: Defendants deny the allegations set forth in paragraphs marked “33”, “34”, “35”, “36”, “37”, and “38”, and each and every part thereof.

ELEVENTH: Defendants deny having knowledge or information sufficient to form a belief

as to the allegations set forth in paragraphs marked “39”, “40”, “41”, “42”, “43”, and “44”, and each and every part thereof.

TWELFTH: Defendants deny the allegations set forth in paragraphs marked “45”, “46”, and “47”, and each and every part thereof.

THIRTEENTH: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “48”, “49”, and “50”, and each and every part thereof.

FOURTEENTH: Defendants deny the allegations set forth in paragraph marked “51”, and each and every part thereof.

FIFTEENTH: Defendants deny the allegations set forth in paragraph marked “52”, and respectfully refers all questions of law to the trial Court.

SIXTEENTH: Defendants deny the allegations set forth in missing paragraphs marked “53”, “54”, “55”, “56”, “57”, “58”, “59”, “60”, and “61”, and each and every part thereof.

**AS TO THE SECOND CAUSE OF ACTION**

SEVENTEENTH: Defendants repeat and reiterate each and every denial in answer to paragraphs numbered “1” through “61”, of the Complaint as if more particularly hereinafter set forth in answer to paragraph numbered “62”, and each and every part thereof.

EIGHTEENTH: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked “63”, and “64”, and each and every part thereof.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

NINETEENTH: The plaintiff was guilty of culpable conduct, including contributory negligence and/or assumption of risk, and should an award be made to plaintiff, same should be diminished in the proportion which the culpable conduct and/or contributory negligence and/or assumption of risk attributable to the plaintiff bears to the culpable conduct and/or negligence which caused the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

TWENTIETH: In the event that plaintiff recovers judgment against this answering defendant and it is determined that plaintiff's damages were caused in whole or in part by two or more joint tortfeasors, then defendant's liability herein for non-economic loss may not exceed its equitable share of said damages in accordance with its relative culpability, as provided by Section 1601 of the CPLR.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

TWENTY-FIRST: Plaintiff's recovery, if any, shall be reduced by the amount of any collateral payments received, in accordance with CPLR Section 4545.

**AS A CROSS COMPLAINT AGAINST CO-DEFENDANT, D &  
D GENERAL CONTRACTING & PROPERTY  
MAINTENANCE INC., DEFENDANTs, FBG WALL LLC and RD  
MANAGEMENT LLC ALLEGE:**

If the plaintiff was caused to sustain injuries and damages at the time and place and in the manner alleged in the Complaint through any carelessness, recklessness and negligence other than the plaintiff's own carelessness, reckless and negligence, said injuries and damages were caused by reason of the carelessness, recklessness and negligence and/or affirmative acts of omission or commission and/or breach of contract and/or breach of lease by each party against whom this Cross-



Complaint is pleaded and the agents, servants and/or employees of each such party, and if any judgment is recovered herein by the plaintiff against the defendant(s) asserting this Cross-Complaint, the said defendant(s) will be damaged thereby and each party against whom this Cross-Complaint is pleaded is or will be responsible therefor.

By reason of the foregoing and by reason of indemnification and/or hold harmless agreements by and between the cross-complaining defendant(s) and each party against whom this Cross-Complaint is pleaded, each party against whom this Cross-Complaint is pleaded will be liable to and bound to indemnify the defendant(s) asserting the same in the event of a recovery herein by the plaintiff against the defendant(s) asserting this Cross-Complaint and bound to pay to the defendant(s) asserting this Cross-Complaint and all attorneys' fees, costs of investigation and disbursement.

Alternatively and by reason of the foregoing, each party against whom this Cross- Complaint is pleaded, on the basis of apportionment of responsibility for the alleged occurrence, will be liable to contribute to the verdict or judgment recovered against the said defendant(s) asserting this Cross-Complaint.

WHEREFORE, defendant, FBG WALL LLC and RD MANAGEMENT LLC, requests judgment dismissing the Complaint herein, together with costs and disbursements of this action.

Dated: Northport, New York  
May 26, 2021

Yours, etc.

BRODY, O'CONNOR & O'CONNOR, ESQS.

Attorneys for Defendant

WAL-MART STORES EAST, LP i/s/h/a

WALMART, INC.

By: Joseph O'Connor  
JOSEPH O'CONNOR  
7 Bayview Avenue  
Northport, New York 11768  
(631) 261-7778  
File No.: WM 20-515 JO

TO: LAW OFFICES ROSEMARIE ARNOLD  
Attorneys for Plaintiffs  
1386 Palisade Avenue  
Fort Lee, New Jersey 07024  
(201) 461-1111

**AFFIRMATION BY ATTORNEY**

The undersigned, an attorney admitted to practice in the Courts of the State of New York, shows:

That affirmant is the attorney for the defendant in the within action; that affirmant has read the foregoing Verified Answer and knows the contents thereof; that the same is true to the affirmant's knowledge, except as to the matters therein stated to be alleged on information and belief; and that as to those matters, affirmant believes it to be true.

Affirmant further says that the reason this Verification is made by deponent and not by the defendant is that defendant is a foreign limited partnership.

The grounds of belief as to all matters not stated upon deponent's knowledge are documents, correspondence and records maintained in your deponent's files and conversations and conferences had with the defendant.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: Northport, New Yor

May 26, 2020

  
JOSEPH O'CONNOR

**AFFIDAVIT OF MAILING**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF SUFFOLK     )

KATELYN OLSEN being duly sworn, deposes and says:

That your deponent is not a party to this action, is over 18 years of age and resides at Greenlawn, New York.

That on the 27<sup>th</sup> day of May, 2021, deponent served the within VERIFIED ANSWER

UPON:       LAW OFFICES ROSEMARIE ARNOLD  
              Attorneys for Plaintiffs  
              1386 Palisade Avenue  
              Fort Lee, New Jersey 07024  
              (201) 461-1111

The address designated by said attorney for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

  
KATELYN OLSEN

Sworn to before me this  
27<sup>th</sup> day of May, 2021.

  
NOTARY PUBLIC

KAREN A. CONVERSO  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 03CO4907647  
Qualified in Suffolk County  
My Commission Expires 10-13-2021